From: <u>Curtin, James</u>
To: <u>Fotouhi, David</u>

Cc: <u>Neugeboren, Steven</u>; <u>Schroer, Lee</u>

**Subject:** FW: Deschutes -- Update on briefing with RA and next steps

**Date:** Tuesday, May 22, 2018 10:31:00

Attachments: 05.21.2018 Deschutes R10 ORA Briefing.docx

Enclosure ORA 5-21 briefing.docx

## David.

This is an FYI re OW staff's report up their chain re Deschutes briefing for R10 RA yesterday and possible RA call to Dave Ross later this week. Consistent with my recollection of the call.

## Jim

Jim Curtin

**USEPA** Office of General Counsel

Water Law Office 202-564-5482

William Jefferson Clinton North Rm. 7451

From: Havard, James

**Sent:** Tuesday, May 22, 2018 1:27 PM

To: Goodin, John <Goodin.John@epa.gov>; Wall, Tom <Wall.Tom@epa.gov>

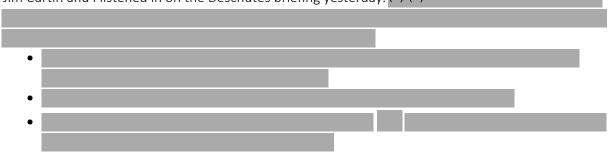
**Cc:** Lewicki, Chris <Lewicki.Chris@epa.gov>; Curtin, James <curtin.james@epa.gov>; Hunter,

Christopher < Hunter. Christopher@epa.gov>

**Subject:** Deschutes -- Update on briefing with RA and next steps

John -

Jim Curtin and I listened in on the Deschutes briefing yesterday. (b) (5)



I recommend you send the papers used by the Region for the RA (attached), reforwarding the note below, as background for Dave Ross, in prep for a potential call from the RA. We also can provide additional briefing if needed/appropriate.

My staff and OGC are working with the Region on the details of the decision document. Thanks!

Jim

From: Goodin, John

Sent: Thursday, May 17, 2018 6:42 PM

**To:** Ross, David P < ross.davidp@epa.gov >; Forsgren, Lee < Forsgren.Lee@epa.gov >

Cc: Campbell, Ann <<u>Campbell.Ann@epa.gov</u>>; Wall, Tom <<u>Wall.Tom@epa.gov</u>>; Havard, James

<<u>Havard.James@epa.gov</u>>; Connors, Sandra <<u>Connors.Sandra@epa.gov</u>>

**Subject:** Deschutes Update DELIBERATIVE DRAFT

Dave et al.— the following is some updated info on the Deschutes TMDLs and a recommendation on
how to engage you for input prior to Region 10 action on the TMDLs by our June 29 deadline. (b) (5)
With the RA's views and background info in hand next week,
we would be available to brief you or provide the info to you for your review. Recommend that you
could then have a call with Chris before the end of May.
(b) (5)
Let me know if we can do anything further.
Thanks,
John
Background
The Deschutes River, Percival Creek, and Budd Inlet Tributaries (Phase 1) TMDL study area is located
in south Puget in Thurston and Lewis Counties, Washington. The Washington Department of Ecology
submitted the final Phase 1 Deschutes TMDL to EPA for approval on December 17, 2015. That
document addresses a total of 73 waterbody-pollutant combinations, involving temperature,
dissolved oxygen [DO], pH, fecal coliform, and fine sediment impairments.
Litigation
On September 6, 2017, Northwest Environmental Advocates (NWEA) filed a complaint against EPA
alleging violation of section 303(d)(2) of the Clean Water Act (CWA) for failure to act on the
Deschutes River TMDL submission. Section 303(d)(2) requires EPA to either approve or disapprove a
state's TMDL submission within 30 days of submittal.
(b) (5)
Current Status
The CWA requires EPA to either approve or disapprove state-submitted TMDLs, and if we
disapprove, we are required to develop a replacement TMDL within 30 days. (b) (5)

(b) (5)		